

ARKANSAS SUPREME COURT

No. CR 05-1062

NOT DESIGNATED FOR PUBLICATION

JERRY L. HERRON
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered September 21, 2006

PRO SE APPEAL FROM THE CIRCUIT
COURT OF ARKANSAS COUNTY,
NORTHERN DISTRICT, CR 2002-74,
HON. DAVID G. HENRY, JUDGE

AFFIRMED

PER CURIAM

Appellant Jerry L. Herron was convicted of first-degree murder and sentenced to life imprisonment. This court affirmed the judgment. *Herron v. State*, ___ Ark. ___, ___ S.W.3d ___ (May 26, 2005). Appellant then timely filed in the trial court a *pro se* petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Appellant now brings this appeal of that order.

We do not reach the merits of appellant's argument on appeal. As the State notes in its brief, appellant's petition was not properly verified. Arkansas Rule of Criminal Procedure 37.1(d) requires that the petition be verified. The verification requirement for a postconviction-relief petition is of substantive importance to prevent perjury. *Carey v. State*, 268 Ark. 332, 596 S.W.2d 688 (1980). To serve this purpose, a petitioner must execute the verification, and if the petitioner is represented by counsel, counsel may not sign and verify the petition for him. *Boyle v. State*, ___ Ark. ___, ___ S.W.3d ___ (May 5, 2005) (*per curiam*).

Here, appellant did not sign the petition. While there is a portion at the end of the petition that purports to be a verification, there is no attestation that appellant had read the petition and verified its accuracy, and appellant's signature does not appear on the document. As appellant was proceeding *pro se*, there was no basis for a motion for leave to proceed without verification, nor does one appear in the record.

Because appellant failed to meet the requirements for postconviction relief under Rule 37.1, the trial court did not err in denying appellant's petition. Although the trial court did not deny the petition based upon its lack of verification, the trial court could not consider the issues in the petition. *See Shaw v. State*, ___ Ark. ___, ___ S.W.3d ___ (June 30, 2005). Because the petition was not verified as required by Rule 37.1(d), dismissal of the petition was appropriate. Accordingly, we affirm the trial court's denial of postconviction relief.

Affirmed.

Gunter, J., not participating.